

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Lamar Lance Hamilton,

Civil No. 08-5183 (DWF/JJK)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

State of Minnesota,

Respondent.

Lamar Lance Hamilton, *Pro Se*, Petitioner.

Michael K. Walz, Assistant Hennepin County Attorney; Hennepin County Attorney's Office; and Peter R. Marker and Tibor M. Gallo, Assistant Attorneys General, Minnesota Attorney General's Office, counsel for Respondent.

This matter is before the Court upon Petitioner Lamar Lance Hamilton's ("Petitioner") objections to Magistrate Judge Jeffrey J. Keyes's Report and Recommendation dated September 17, 2008, recommending that this action be summarily dismissed without prejudice, unless, before the deadline for filing objections to this Report and Recommendation, Petitioner files an amended habeas corpus petition listing only fully exhausted claims. While the Petitioner has corresponded with the Court and Magistrate Judge Keyes in letters received on September 25, 2008, and October 16, 2008, no amended habeas corpus petition listing only fully exhausted claims has been filed. Moreover, while the procedural history of this case is perhaps not a model for other prosecuting authorities and defense lawyers to emulate, the Petitioner's petition does not

contain only fully exhausted claims. The Respondent has declined to file a response to the Report and Recommendation or the objections filed by Petitioner.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Petitioner Lamar Lance Hamilton's objections (Doc. No. 4) to Magistrate Judge Keyes's Report and Recommendation dated September 17, 2008, are **DENIED**.

2. Magistrate Judge Keyes's Report and Recommendation dated September 17, 2008 (Doc. No. 3), is **ADOPTED**.

3. This action is summarily **DISMISSED WITHOUT PREJUDICE**.

4. The Court directs that the Clerk of Court supply a copy of this Order to the Chief Hennepin County Public Defender, Attention: Appellate Division, as well as those lawyers listed as attorneys of record from the Hennepin County Attorney's Office and the Minnesota Attorney General's Office.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 10, 2008

s/Donovan W. Frank

DONOVAN W. FRANK

Judge of United States District Court